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Filing date: **10/15/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92053501
Party	Plaintiff Christian M. Ziebarth
Correspondence Address	KELLY K PFEIFFER AMEZCUA-MOLL ASSOCIATES PC LINCOLN PROFESSIONAL CENTER, 1122 E LINCOLN AVE SUITE 203 ORANGE, CA 92865 UNITED STATES kelly@amalaw.net, kelpfeiffer@aol.com
Submission	Testimony For Plaintiff
Filer's Name	Kelly K. Pfeiffer
Filer's e-mail	kelly@amalaw.net
Signature	/Kelly K. Pfeiffer/
Date	10/15/2013
Attachments	Affidavit of R. Hallstrom-executed.pdf(3767142 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 1043729  
Date of Registration: July 13, 1976

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CHRISTIAN M. ZIEBARTH  
Petitioner,

Cancellation No.: 92053501

v.

DEL TACO, LLC  
Registrant.

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Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

**PETITIONER'S TESTIMONY AFFIDAVIT OF ROB HALLSTROM**

I, Rob Hallstrom, swear as follows:

1. My full name is Charles Robert Hallstrom. I am the owner of a public relations and marketing agency named 714 Media located at 111a North Harbor Boulevard, Fullerton, California 92832. 714 Media specializes in the restaurant industry. I also co-own three restaurants in Orange County, California. I have personal knowledge of the facts stated herein.
2. Petitioner CHRISTIAN M. ZIEBARTH ("Mr. Ziebarth") first approached me with the idea to start up a NAUGLES food business in approximately late 2009 or early 2010. In January of 2010, Mr. Ziebarth first inquired if I would be willing to help him make this idea of opening restaurants under the NAUGLES name a reality. I remembered NAUGLES very well, having grown up right by the original location in Riverside, California, and was interested in helping. Attached hereto as Petitioner's Exhibit H (already designated as such in Petitioner's Testimony

Affidavit of Christian Ziebarth) are true and correct copies of email exchanges between Mr. Ziebarth and me, reflecting a few of our numerous discussions about opening up restaurants under the NAUGLES mark. These emails date back to December 9, 2009. As seen on pages 1, 2 and 3 of Exhibit H, Mr. Ziebarth wrote to me on January 4, 2010 and asked, "Rob, does your group have any interest in helping a new restaurant open? I stumbled into something like an opportunity that I am quite sure would be very profitable and am trying to find the right people to help pull it off. I'll give more details if interest is shown. For now I will say that it's actually kind of a fast-food concept or maybe a blend between fast food and fast casual." On the same date, January 4, 2010, I replied, "There is always an interest. Please let me know when you can share more info and we can discuss further." Mr. Ziebarth, once again, wrote to me on that date, stating, "Do you remember the old Naugles chain?"

3. After this email exchange with Mr. Ziebarth in January 2010, I had meetings in person with him about opening NAUGLES restaurants. We first talked about it in person at one of my restaurants: Matador Cantina in Fullerton, California. At that time, I was aware of a building not too far from there that I remembered being a old NAUGLES location. I am informed and believe that it is now a restaurant called the Golden Ox. Mr. Ziebarth and I had a subsequent meeting at the Golden Ox in Fullerton, California. I am informed and believe that customers of the Golden Ox have commented how the restaurant used to be a place called NAUGLES. Between January 2010 and May 2010, Mr. Ziebarth and I also had many more discussions about potential locations for his NAUGLES restaurants, and we looked at a few properties. We also did a little research into old NAUGLES locations.

4. I can also personally testify to the fact that, in the early 1990's, the NAUGLES locations I had personally been to before in Orange County and Riverside, California were now only known as "Del Taco." I am informed and believe the very last NAUGLES restaurant closed in 1994 or 1995.

I, Rob Hallstrom, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 35 U.S.C. 25 and 18 U.S.C. 1001 of the United States Code, and that such willful false statements may jeopardize the validity of the foregoing statements, declare that all statements are made of my own knowledge and are true, and all statements made on information and belief are believed to be true.

Executed on October 14, 2013 in FULLERTON, California



Rob Hallstrom

CHARLES ROBERT HALLSTROM

State of California  
County of Orange

Subscribed and sworn to (or affirmed) before me on this 14<sup>th</sup> day of Oct., 2013, by Charles Robert Hallstrom who provided to me on the basis of satisfactory evidence to be the person who appeared before me.

(seal)

Signature: \_\_\_\_\_



**PETITIONER'S EXHIBITS TO TESTIMONY AFFIDAVIT OF ROB HALLSTOM**

Emails between Petitioner and R. Hallstrom

Exhibit H

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **PETITIONER'S TESTIMONY AFFIDAVIT OF ROB HALLSTROM** was served upon April L. Besl, DINSMORE & SHOHL, LLP, attorney of record for the Registrant in this action by depositing one copy thereof in the United States mail, first-class postage prepaid on October 14, 2013 and addressed as follows:

April L. Besl, Esq.  
DINSMORE & SHOHL, LLP  
255 East Fifth Street, Suite 1900  
Cincinnati, OH 45202

/Kelly K. Pfeiffer/  
Kelly K. Pfeiffer  
AMEZCUA-MOLL & ASSOCIATES, P.C.  
Lincoln Professional Center  
1122 E. Lincoln Ave., Suite 203  
Orange, CA 92865  
Attorney for Petitioner CHRISTIAN M. ZIEBARTH

# **EXHIBIT H**

**to Petitioner's Testimony Affidavit of Rob Hallstrom**

**naugles**

2 messages

Christian Ziebarth &lt;[REDACTED]&gt;

Rob Hallstrom &lt;[REDACTED]&gt;

Tue, Jan 12, 2010 at 9:22 AM

To: Christian Ziebarth &lt;reviews@ccmexfood.com&gt;

Best to hire a trademark or patent attorney or consult with one. They will tell you everything you need to know and where to look to find expiration status, etc. I believe the way it works is if they are not actively using the trademark or patent it is up for grabs after a certain length of time.

On 1/12/10 9:16 AM, "Christian Ziebarth" <reviews@ccmexfood.com> wrote:

"Or better yet see when they are set to expire..."

Hmm, that's an angle I never thought of. I always just assumed they owned it from here on out. But maybe they don't. I'll ask Jeff Naugle about that.

On Tue, Jan 12, 2010 at 8:32 AM, Rob Hallstrom <[REDACTED]> wrote:

Your last email to naugles nephew? Still think it's good idea, but I would see about buying rights to the name from del taco. Or better yet see when they are set to expire...

On 1/11/10 10:07 PM, "Christian Ziebarth" <reviews@ccmexfood.com>  
<http://reviews@ccmexfood.com> wrote:

Either my last e-mail didn't go through or the whole Naugles thing was a bad idea. I think I will work with some people who have some taco trucks then because it might be best to try the concept out with a food truck first.

On Mon, Jan 4, 2010 at 2:54 PM, Rob Hallstrom <[REDACTED]>  
<[REDACTED]> wrote:

Yea. I practically grew up there having lived a mile or so from the one in Riverside at Brockton and 14th. Loved the green burritos and fries. We were always broke so we often ordered the all-cheese burritos. Otherwise, you got the double wrap macho burrito or the naugleburger. Oh, and the chocolate shakes rocked! The receipts had a little cartoon character brief message at the bottom that read "Dick Naugles says" and then there would be a little note about the food or something related. It was open late night, as was the one on the other end of town so it became the popular cruise night hang and "turnaround" spot. It would be great timing to resurrect the brand. In this economy people are all about eating cheap, especially if it's good. Also, there's the historical factor that would resonate with many generations of past customers. Great idea!

On 1/4/10 2:24 PM, "Christian Ziebarth" <reviews@ccmexfood.com>  
<http://reviews@ccmexfood.com> <http://reviews@ccmexfood.com>  
> wrote:

I don't want to act all "top secret" about it except that I



think it would be wise if we shared information with others when it's necessary to bring it up to others. Do you remember the old Naugles chain?

On Mon, Jan 4, 2010 at 1:02 PM, Rob Hallstrom

<[REDACTED]> <[REDACTED]>  
<[REDACTED]> > wrote:

Hello Christian,  
There is always interest. Please let me know when you can share more info and we can discuss further. Thank you.  
Rob.

**Rob Hallstrom**

| 714 Media

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

111 n. harbor, 2nd fl  
fullerton, ca 92832

714media.com <http://714media.com>  
<http://714media.com>  
<http://714media.com>

facebook/714media.com

<http://714media.com>  
<http://714media.com>  
<http://714media.com>

Twitter @714media.com

<http://714media.com>  
<http://714media.com>  
<http://714media.com>

On 1/4/10 12:57 PM, "Christian Ziebarth"

<reviews@ocnfood.com>  
<http://reviews@ocnfood.com>  
<http://reviews@ocnfood.com>  
<http://reviews@ocnfood.com>

wrote:

Rob, does your group have any interest in helping a new restaurant open? I stumbled into something like an opportunity that I am quite sure would be very profitable and am trying to find the right people to help pull it off. I'll give more details if any interest is shown. For now I will say that it's actually kind of a fast food concept, or maybe more of a blend

between fast food and fast  
casual.

On Wed, Dec 30, 2009 at  
10:04 AM, Rob Hallstrom

<[REDACTED]>  
<[REDACTED]>  
<[REDACTED]>  
<[REDACTED]>  
> wrote:

Tkx! Happy new year!

On 12/29/09 11:20 PM, "Christian Ziebarth" <[REDACTED]>  
<[REDACTED]> <[REDACTED]> <[REDACTED]> <[REDACTED]> > wrote:

Getting an entry put together here:

<http://formexfood.blogspot.com/2009/12/new-years-eve.html>

On Wed, Dec 9, 2009 at 7:13 PM, Rob Hallstrom <[REDACTED]>  
<[REDACTED]> > wrote:

Christian,  
Can you pls post this on your site? Tkx.  
Rob.

**Rob Hallstrom**

| 714 Media

[REDACTED]

[REDACTED]

[REDACTED]

111 n. harbor, 2nd fl.

fullerton, ca 92832

714media.com <http://714media.com> <http://714media.com> <http://714media.com>  
<http://714media.com> <http://714media.com>

facebook/714media.com <http://714media.com> <http://714media.com> <http://714media.com>  
<http://714media.com> <http://714media.com>

Twitter @714media.com <http://714media.com> <http://714media.com> <http://714media.com>  
<http://714media.com> <http://714media.com>

Christian Ziebarth <reviews@ccmexfood.com>  
To: Rob Hallstrom <[REDACTED]>

Tue, Jan 12, 2010 at 9:28 AM

Thanks. That's an excellent point. Should've realized that on my own but it's good that you brought it up.  
[Quoted text hidden]

Christian Ziebarth &lt;[REDACTED]&gt;

## Naugles

Rob Hallstrom <[REDACTED]>  
To: Christian Ziebarth <reviews@ocmexfood.com>

Thu, May 27, 2010 at 12:52 PM

Great! Let's meet up to discuss my official involvement.  
Rob.

On 5/27/10 11:30 AM, "Christian Ziebarth" <reviews@ocmexfood.com> wrote:

Just letting you know I have recently filled out an Intent to Use application for the Naugles trademark and am getting ready to take the next legal step.

On Thu, Apr 22, 2010 at 10:27 AM, Rob Hallstrom <[REDACTED]> wrote:

Great, what are his terms?

On 4/21/10 9:29 PM, "Christian Ziebarth" <reviews@ocmexfood.com>  
<[http://reviews@ocmexfood.com](mailto:reviews@ocmexfood.com)> wrote:

Finally got a lawyer on the case...

On Wed, Apr 21, 2010 at 7:20 PM, Rob Hallstrom <[REDACTED]>  
<[REDACTED]> wrote:

Yea, great location. Too bad it was made into a del taco. They'll be there forever...

On 4/21/10 7:16 PM, "Christian Ziebarth" <reviews@ocmexfood.com>  
<[http://reviews@ocmexfood.com](mailto:reviews@ocmexfood.com)> <[http://reviews@ocmexfood.com](mailto:reviews@ocmexfood.com)>  
> wrote:

Here's a picture of the Brookhurst and Hamilton location with flags in place of lanterns:

<http://www.flickr.com/photos/ziebarth/4541762007/>

Somehow I lost a much better quality version of this. This is one of the most mentioned former Naugles locations there is.

On Tue, Apr 13, 2010 at 10:03 PM, Rob Hallstrom

<[REDACTED]>  
<[REDACTED]> wrote:

Can u post something on the matador anniversary next thurs? And naturally cinco?

On 4/5/10 11:38 AM, "Christian Ziebarth"

<[reviews@ocmexfood.com](mailto:reviews@ocmexfood.com)>

<<http://reviews@ocmexfood.com>>

<<http://reviews@ocmexfood.com>>

<<http://reviews@ocmexfood.com>>

wrote:

Ended up making a very unexpected trip out to Riverside on Friday night for reasons unrelated to Del Taco/Naugles and ended up stopping by the 14th and Brockton spot. They had very clearly done everything they could to thoroughly and deliberately sweep away any possible remembrance of Naugles there. But interestingly enough the friend I rode out there with asked one of the employees if she knew what it used to be before it was a Del Taco and she said, "Yeah, I get a bunch of people coming through the drive-thru every single day telling me it used to be a place called 'Naugies.' I'm getting kind of tired of them talking about it." They also didn't know what the combo cup was there and didn't know that the bun taco was originally a Naugles item.

I know you wanted to go but it was kind of a bummer to see that they had stripped away every single hint that it had ever been anything other than a Del Taco. Not even a plaque on the wall or a photo of what it used to look like, which in a way is good for our case and further proof of the abandonment of the trademark, but still disappointing.

On Mon, Mar 29, 2010 at 4:41 PM, Rob Hallstrom

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

> wrote:

Next sat may be good. Let's touch base later in week.

On 3/29/10 4:29 PM, "Christian Ziebarth" <reviews@ocmexfood.com> <http://reviews@ocmexfood.com>  
<http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com> > wrote:

Tell me what times are generally good for you. Saturdays are best for me although this Saturday would be bad but the next one should be fine. Sundays tend to not work at all for me and weekdays are hard too but every once in a while things change and I find I have some free time on a weekday.

On Mon, Mar 29, 2010 at 3:24 PM, Rob Hallstrom <[REDACTED]> > wrote:

Let me know if you want me to join you for the ride to riverside.

On 3/29/10 3:01 PM, "Christian Ziebarth" <reviews@ocmexfood.com>  
<http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com>  
<http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com>  
<http://reviews@ocmexfood.com> > wrote:

Well, I'm thinking that any location that used that architecture probably did have the lanterns when it was a Naugles. The location at Brookhurst and Hamilton has little orange flags in their place now, or at least it did. But the lawyers want to find every possible use that Del Taco makes of the name "Naugles" so we can have a very clear cut idea of the complete extent of their usage. They realize we would never be able to go to every Del Taco location but if somebody could make it to the original Naugles location and see if perhaps they have hanging on a wall inside a picture of what it used to look like as Naugles then we would know that that is one instance of their usage, even if it's only a small one. But if I get there and see, as I suspect to be the case, that that they have completely abandoned anything Naugles-related at even the original flagship Naugles location then that will be a good indicator that it is the same at every other location and leave their usage at the one bare-bones mention of Naugles on their website, which would then strengthen the case to move ahead with a cancellation of trademark proceeding.

On Mon, Mar 29, 2010 at 2:07 PM, Rob Hallstrom <[REDACTED]> > wrote:

The only location that still has the lanterns in place is the one at brookhurst and malvern. I wonder if they were only at select locations?

On 3/29/10 12:58 PM, "Christian Ziebarth" <reviews@ocmexfood.com>  
<http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com>  
> <http://reviews@ocmexfood.com>  
<http://reviews@ocmexfood.com>  
<http://reviews@ocmexfood.com>  
<http://reviews@ocmexfood.com> > wrote:

So you were right there at the beginning of Naugles. Going to try to make it there soon and see if there is any vestige of Nauglesness remaining. Here's a Jack in the Box at Warner and Harbor near the Fountain Valley/Santa Ana border that used to be a Naugles:



<http://www.city-data.com/photos/ziebarth/4474402644/?pset=2/1576744&ip=116385/>

On Sat, Mar 27, 2010 at 7:26 PM, Rob Hallstrom <[REDACTED]>

[REDACTED]  
[REDACTED]  
[REDACTED] > wrote:

Yup. That's the one on 14th and Brockton. I went to the elementary school across the street. The 1st vans shoe store was up the street too.

Sent from my iPhone

On Mar 27, 2010, at 10:52 AM, Christian

Ziebarth <[reviews@omninetood.com](mailto:reviews@omninetood.com)>

<<http://reviews@omninetood.com>>

<<http://reviews@omninetood.com>>

<<http://reviews@omninetood.com>>

<<http://reviews@omninetood.com>>

<<http://reviews@omninetood.com>>

<<http://reviews@omninetood.com>>

wrote:

Is this the Naugles you used to go to in Riverside?

<<http://www.city-data.com/land-renters/173822206-del-taco-riverside-ca.html>> <http://www.city-data.com/land-renters/173822206-del-taco-riverside-ca.html>

The trademark lawyers have advised me to go there and see if they possibly have anything on display that could be related to Naugles.

On Wed, Mar 17, 2010 at 6:20 PM, Rob

Hallstrom <[REDACTED]>

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] > > wrote:

Really? That's surprising. I thought it would have sat empty or much longer in this economy. Expensive rent too! See how long they last... How are things going with Naugles?

On 3/17/10 1:03 PM, "Christian Ziebarth" <[http://reviews@omninetood.com](mailto:reviews@omninetood.com)> <[reviews@omninetood.com](mailto:reviews@omninetood.com)>  
<<http://reviews@omninetood.com>> <<http://reviews@omninetood.com>> <<http://reviews@omninetood.com>>

<<http://reviews@acmexfood.com>> <<http://reviews@acmexfood.com>> <<http://reviews@acmexfood.com>> > wrote:

Stopped at the Matador today and on the way back I drove by Bob's Burgers again. Didn't really expect to see anything different but it was different. It was being worked on and repainted. Oddly enough, its "new" colors are more in line with the Naugles color scheme. But they still had the "For Lease" signs out front. I called the property people when I got back and they said, "Oh, somebody started leasing it about a week ago."

<<http://www.flickr.com/photos/12-01-01-444096097/size/c/>> <http://www.flickr.com/photos/12-01-01-444096097/size/c/>

On Tue, Mar 9, 2010 at 9:19 AM, Rob Hallstrom <[rob.hallstrom@acmexfood.com](mailto:rob.hallstrom@acmexfood.com)> <[rob.hallstrom@acmexfood.com](mailto:rob.hallstrom@acmexfood.com)> <[rob.hallstrom@acmexfood.com](mailto:rob.hallstrom@acmexfood.com)> > wrote:

So it seems he wants to be associated by name only. If this is the case, you should be president of the corporation. Look at it as sort of a licensing of the "his" naugles names from a credibility standpoint. Same as when wolfgang puck lends his name to the many offshoots of "puck" restaurants. After creating the corp, the next step is to obtain operating capitol. This would normally be fairly easy given the popularity and renewed interest in the naugles brand, but institutional lending is not what it once was due to the global economic economy. However, providing the legal collateral for the naugles name will standup in court I feel strongly that we can obtain the funding to at least open the first restaurant. Let me know how things progress.

On 3/8/10 9:34 PM, "Christian Ziebarth" <[christian.ziebarth@acmexfood.com](mailto:christian.ziebarth@acmexfood.com)> <[christian.ziebarth@acmexfood.com](mailto:christian.ziebarth@acmexfood.com)> <[christian.ziebarth@acmexfood.com](mailto:christian.ziebarth@acmexfood.com)> <[christian.ziebarth@acmexfood.com](mailto:christian.ziebarth@acmexfood.com)> <[christian.ziebarth@acmexfood.com](mailto:christian.ziebarth@acmexfood.com)> <[christian.ziebarth@acmexfood.com](mailto:christian.ziebarth@acmexfood.com)> <[christian.ziebarth@acmexfood.com](mailto:christian.ziebarth@acmexfood.com)> <[christian.ziebarth@acmexfood.com](mailto:christian.ziebarth@acmexfood.com)> <[christian.ziebarth@acmexfood.com](mailto:christian.ziebarth@acmexfood.com)> <[christian.ziebarth@acmexfood.com](mailto:christian.ziebarth@acmexfood.com)> > wrote:

Finally heard back from Jeff. He didn't have much new to say. He just still seems interested in the project while also being interested in having other people do the majority of the work, which is fine with me and understandable that he would feel that way at his age. A trademark lawyer friend of mine seems to want to take the case on but just has to verify that nobody else at his firm represents Del Taco in any capacity. I found out that I can contest their ownership online by myself but also feel it'd be wise to have a trademark lawyer making sure I'm doing it right.

On Fri, Mar 5, 2010 at 9:14 AM, Rob Hallstrom <[rob.hallstrom@acmexfood.com](mailto:rob.hallstrom@acmexfood.com)> <[rob.hallstrom@acmexfood.com](mailto:rob.hallstrom@acmexfood.com)> <[rob.hallstrom@acmexfood.com](mailto:rob.hallstrom@acmexfood.com)> > wrote:

Still seems high for area. That's nearly downtown rent. Would have to do comps in the area to be certain. Either way, if it's not being leased that will have to consider lower offers. Does jeff not often return your calls? 3 weeks is a long time. I would proceed without him and continue compiling legal collateral for the case.

On 3/4/10 9:51 PM, "Christian Ziebarth" <[christian.ziebarth@acmexfood.com](mailto:christian.ziebarth@acmexfood.com)> <[christian.ziebarth@acmexfood.com](mailto:christian.ziebarth@acmexfood.com)> <[christian.ziebarth@acmexfood.com](mailto:christian.ziebarth@acmexfood.com)> <[christian.ziebarth@acmexfood.com](mailto:christian.ziebarth@acmexfood.com)> <[christian.ziebarth@acmexfood.com](mailto:christian.ziebarth@acmexfood.com)> >



> <http://reviews@ocmexfood.com>  
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 <http://reviews@ocmexfood.com> http://reviews@ocmexfood.com>  
 <http://reviews@ocmexfood.com>  
 http://reviews@ocmexfood.com> > wrote:

I think she said 2100 sq. ft. Does that sound like it might be about right? Can't imagine they are getting a lot of interested parties for that spot. Kind of concerned because I haven't heard from Jeff in almost three weeks.

On Thu, Mar 4, 2010 at 1:19 PM, Rob Hallstrom <

<[REDACTED]> <[REDACTED]>  
 <[REDACTED]> <[REDACTED]>  
 <[REDACTED]> <[REDACTED]>  
 <[REDACTED]> <[REDACTED]>  
 <[REDACTED]> <[REDACTED]>  
 <[REDACTED]> <[REDACTED]> > wrote:  
 That seems high. What is sq ft? I'm sure it is highly negotiable. I don't see anyone going in there anytime soon. Yea, I don't recall when or if it ever went all the way through, but it certainly appears that way. I know they started building on the property in-between only a few years back. Regardless, it would be cool to kick it off again at an original location. With the type of cult following it has, people may seek it out no matter where.

On 3/4/10 12:57 PM, "Christian Ziebarth" <

<http://reviews@ocmexfood.com> reviews@ocmexfood.com  
 <http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com>  
 <http://reviews@ocmexfood.com>  
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 <http://reviews@ocmexfood.com>  
 http://reviews@ocmexfood.com> <  
 <http://reviews@ocmexfood.com> http://reviews@ocmexfood.com>  
 > wrote:

Yes, you are #3. Just called about the Brookhurst and Commonwealth spot. They said it is \$6250 a month ("includes tax, title, license, etc., etc.") to lease. Almost wonder if that spot died down because of Naugles leaving. But I guess you said Brookhurst used to continue through until the train tracks were put there?

On Thu, Mar 4, 2010 at 12:31 PM, Rob Hallstrom <

<[REDACTED]> <[REDACTED]>  
 <[REDACTED]> <[REDACTED]>  
 <[REDACTED]> <[REDACTED]>  
 <[REDACTED]> <[REDACTED]>  
 <[REDACTED]> <[REDACTED]>  
 <[REDACTED]> <[REDACTED]> > wrote:

Wow! That's vey cool. I figured it was. Looked exactly the way I remembered it. A bit surprised it was one of the top performers though...

I like the idea of jeff being named as plaintiff. Have you looked into drawing up corp paperwork yet? Maybe Naugles, Inc. ask the attorney if proceeding with a corp name like this is smart idea when representing jeff as plaintiff or if it really matters. The new corp can have a board of directors, maybe listing jeff as president, you as vp, etc. for the record, i'm obviously interested in being on board as well.

On 3/4/10 12:03 PM, "Christian Ziebarth" <[http://review@ormexfood.com](mailto:review@ormexfood.com)> review@ormexfood.com  
 <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)>  
 <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <  
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 <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)> > wrote:

Now I have to see if Jeff could front the \$10,000 attorney fee. This trademark attorney has suggested that Jeff be listed as the plaintiff. It'll make the case stronger if a "Naugle" is on it.

Last night I saw the friend that rode with me out to Visalia. I said, "Rob was wondering if the Bob's Burgers on Brookhurst and Commonwealth used to be a Naugles..." and before I could say much more my friend goes, "Yes, it was. Jeff told us it was and that it was one of their best locations."

On Thu, Mar 4, 2010 at 11:53 AM, Rob Hallstrom <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)>  
 <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)>  
 <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)>  
 <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)> > wrote:

Interesting. So it seems the green light is becoming even brighter.

On 3/4/10 11:20 AM, "Christian Ziebarth" <[http://review@ormexfood.com](mailto:review@ormexfood.com)> review@ormexfood.com  
 <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)>  
 <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)>  
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 <[http://review@ormexfood.com](mailto:review@ormexfood.com)> <[http://review@ormexfood.com](mailto:review@ormexfood.com)> > wrote:

Here's a little extra insight. This comes from a patent attorney who I think works in South County. He specializes in patents and I have been talking with him about trademarks (which clearly are two different things). We had been sort of butting heads in our discussion with him coming at it from the angle of somebody who knows a lot about patents and thinks he knows some about trademarks and me coming at it from the angle of somebody who is not a legally oriented person at all but has done some relatively in-depth research on trademark issues. He told me a while back that about once every two weeks an actual trademark lawyer comes into his office so here is what he has to say now (I italicized the interesting part):

Our Trademark attorney just walked in and I talked with her about this... finally.

We looked up a few things and you very well might have a good case for cancellation of the Naugles mark owned by Del Taco.

Del Taco appears to have filed Old pictures of the Naugles restaurant front for their

"continued use" statements, which are due every few years to keep a mark alive.  
 WRONG WRONG WRONG. *This appears to be fraud on the Trademark office.* I stand corrected in light of that evidence

On Mon, Mar 1, 2010 at 6:27 PM, Rob Hallstrom <[REDACTED]>

<[REDACTED]> <[REDACTED]> <[REDACTED]>  
 <[REDACTED]> <[REDACTED]> <[REDACTED]>  
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 <[REDACTED]> <[REDACTED]> <[REDACTED]>  
 <[REDACTED]> <[REDACTED]> <[REDACTED]> > wrote:

Good news! Continue compiling as much legal collateral as possible to build the case. I would not contact del taco any more at this point. Best to get everything in your court by registering as much as possible under a new corporate name such as Naugles, Inc. once all the legal bases are covered, we simply supply business plan using original Naugles model to investor and put plans forward to opening first store. Eventually, Del Taco legal department will likely issue a cease and desist order, but they will have to prove they have legal ground to take further action. Let me know when you would like to meet again to further discuss taking the next step.

On 3/1/10 5:37 PM, "Christian Ziebarth" <

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 <[REDACTED]> <[REDACTED]> <[REDACTED]>  
 <[REDACTED]> <[REDACTED]> <[REDACTED]> > wrote:

Found this image recently after doing a deep, deep search on the US Trademark Office website. This is the image Del Taco had on their website a while back to "prove" that they were still doing business with the Naugles name. Confirmed my suspicion that that was the *only* thing they were going off of, even though I thought my suspicion was almost too silly to really consider. But I have been talking with a trademark attorney, and though he is reluctant to guarantee anything, he seems *very* confident that that instance of Del Taco's usage of "Naugles" is far from enough to prove that they are still conducting a restaurant business with the Naugles name. He says, "The bottom line is if a trademark applicant has 'restaurant' on their goods and services, and they are no longer using any restaurants using that name, that would be a good basis to move forward with a cancellation."

On Thu, Feb 25, 2010 at 9:09 PM, Rob Hallstrom <

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< [REDACTED] > < [REDACTED] > <  
< [REDACTED] > < [REDACTED] > < wrote:  
That's so cool! I knew I remembered they all had lanterns. So there  
you go, that particular location IS one of the original naugles...

On 2/25/10 8:53 PM, "Christian Ziebarth" <

Thanks for the correction on the mija wrap. Always want to make sure I'm portraying things accurately. Sent out a new tweet on it.

Checked out the Bob's Burgers and took a picture from the side and I think it probably had been a Naugles. Check out this photo:

then this one.

and also this one of the Del Taco at Brookhurst and Hamilton that I know was a Naugles:

<<http://local.yahoo.com/info/21030315/dei-rs-cd-undington-beach?tab=photos#photos>> <http://local.yahoo.com/info/21030315/dei-rs-cd-undington-beach?tab=photos#photos> (this picture doesn't show the lanterns, but oddly enough, I think they might've added the



lanterns back in recently; at least I'm pretty sure I saw them on top when i drove by it a couple days ago when i wasn't even thinking to look for lantern-style attachments)

On Thu, Feb 25, 2010 at 12:02 PM, Rob Hallstrom <

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<[REDACTED]> <[REDACTED]>  
<[REDACTED]> <[REDACTED]> > wrote:

K. text me at 714 474 3813 when u arrive.

On 2/25/10 11:42 AM, "Christian Ziebarth" <<http://reviews@ocmexfood.com> reviews@ocmexfood.com  
<http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com>  
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<http://reviews@ocmexfood.com> http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com>  
http://reviews@ocmexfood.com> > wrote:

leaving my place here in Irvine in about two minutes

On Thu, Feb 25, 2010 at 11:39 AM, Rob Hallstrom <[REDACTED]> <[REDACTED]>  
<[REDACTED]> <[REDACTED]> <[REDACTED]> <[REDACTED]>  
<[REDACTED]> <[REDACTED]> <[REDACTED]> <[REDACTED]>  
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<[REDACTED]> <[REDACTED]> <[REDACTED]> <[REDACTED]>  
<[REDACTED]> <[REDACTED]> <[REDACTED]> <[REDACTED]> > wrote:

cool

[illegible]

Great. I'll probably be there just after noon.

[illegible]

Today around noonish is fine.

```

On 2/24/10 10:16 PM, "Christian Ziebarth" <
<http://reviews@ocmexfood.com> <reviews@ocmexfood.com>
<http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com>
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<http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com>
<http://reviews@ocmexfood.com> > wrote:

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Yep, we should aim for some kind of lunchy time tomorrow and if it doesn't work we can still go for Friday.

On Wed, Feb 24, 2010 at 10:04 PM, Rob Hallstrom <

<[REDACTED]> <[REDACTED]>  
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<[REDACTED]> <[REDACTED]>  
<[REDACTED]> <[REDACTED]>  
<[REDACTED]> <[REDACTED]> wrote:  
Are you free tomorrow or fri?

On 2/23/10 10:38 AM, "Christian Ziebarth" <

<http://reviews@ocmexfood.com> reviews@ocmexfood.com  
<http://reviews@ocmexfood.com> <http://reviews@ocmexfood.com>  
> <http://reviews@ocmexfood.com>  
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<http://reviews@ocmexfood.com>  
http://reviews@ocmexfood.com  
<http://reviews@ocmexfood.com> http://reviews@ocmexfood.com  
> wrote:

Let me know when it'd be a good time to stop by this week.

On Thu, Feb 18, 2010 at 3:16 PM, Rob Hallstrom <

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<[REDACTED]> <[REDACTED]>

Arrgg. Wait! Call me. Just got an emergency.

Leaving my place in Irvine in about 10-15 minutes and heading over.



